

PATENT
514413-3766

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Hacker et al.
Serial No. : Continuation of 09/370,373
Filing Date : August 10, 1999
For : **HERBICIDAL COMPOSITIONS FOR TOLERANT
OR RESISTANT MAIZE CROPS**
Examiner : S. Clardy
Group Art Unit : 1616

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I hereby certify that this correspondence is being deposited with
the United States Postal Service as first class mail in an envelope
addressed to: Assistant Commissioner for Patents, Washington,
DC 20231, on January 8, 2002:

Mark W. Russell, Reg. No. 37,514

Name of Applicant, Assignee or Registered Representative


Signature

January 8, 2002

Date of Signature

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Prior to examining the above-identified application on the merits, kindly amend

the application as follows:

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combination comprises glyphosate-ammonium and a herbicide selected from the group consisting of dicamba, atrazine, sulcotrione, bromoxynil, clopyralid, isoxaflutole, pendimethalin, alachlor, thiensulfuron-methyl, flumetsulam, tritosulfuron, and fluthiamide.

38. The herbicidal composition as claimed in claim 24 wherein the herbicidal combination comprises glyphosate-isopropylammonium and a herbicide selected from the group consisting of 2,4,D,MCPA, pyridate, dimethenamid.--

REMARKS

This invention provides for herbicidal compositions which are useful against unwanted plants that are associated with tolerant maize crops. Applicants discovered that particular combinations of herbicides interact synergistically when they are employed to combat unwanted plant growth in tolerant maize crops. This invention further provides for the use of the inventive herbicidal combinations in combatting unwanted plant growth in fields planted with maize.

This Amendment adds 3 claims in excess of 20 and a check for \$72.00 is enclosed to cover the cost of these new claims. It is believed that no further fee is due. If, however, and additional fee is required, the Assistant Commissioner is authorized to charge said fee to Deposit Account No. 50-0320.

This Amendment cancels all the claims in favor of new claims 16 to 38. Support for these new claims is found in the claim in which they replace. Applicants have added these new claims, which recite specific compounds and avoids the use of generic terms, in response to the Requirement for an Election of Species. Applicants are making these changes in order to reach a reasonable compromise with the Examiner on the subject matter to be searched and not

translocation. Symptoms are whitening of leaves, followed by necrosis of the meristematic tissue.

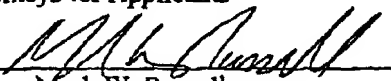
Hence, mesotrione is completely different from alloxymid in terms of its mode of action. Thus, two herbicides are not recognized in the art as equivalent. Hence, the practitioner would not be motivated to substitute mesotrione for alloxymid in the herbicidal compositions taught in Takematsu and the rejection does not establish a *prima facie* case of obviousness. Moreover, Carter does not correct for this deficiency since Carter provides for novel benzoylcyclohexane diones and fails to teach specific synergistic mixtures of the novel benzoylcyclohexane diones with other herbicides. Thus, there is no motivation to combine the benzoylcyclohexane diones of Carter with the glyphosate disclosed in Takematsu.

Thus, in view of the foregoing, it is urged that the rejection does not establish a *prima facie* case of obviousness and the reconsideration and withdrawal of the rejection are requested.

Favorable action is earnestly solicited.

Respectfully submitted,

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